



RAILROAD COMMISSION OF TEXAS

SURFACE MINING AND RECLAMATION DIVISION

March 1, 2016

Sent by Email and First Class Mail

Ms. Nellie Frisbee
Fuels Manager
San Miguel Electric Cooperative, Inc.
P.O. Box 280
Jourdanton, Texas 78026-0280

RE: San Miguel Electric Coop, Inc.
San Miguel Mine, Permit No. 11G
Final Action Notification, NOV 118A

Dear Ms. Frisbee:

Termination of Notice of Violation (NOV) 118A issued to the San Miguel Mine, Permit No. 11G, was provided by letter dated March 1, 2016. Payment of the fine in the amount of \$6,500 for this NOV was received by letter dated February 25, 2016. No further action is required in association with this NOV.

If you have any questions or need further assistance, please contact me.

Sincerely,

A handwritten signature in black ink that reads "John E. Caudle".

John E. Caudle, Director
Surface Mining and Reclamation Division

JEC/se

**RAILROAD COMMISSION OF TEXAS
SURFACE MINING AND RECLAMATION DIVISION**



Notice of Violation No.

118A

TERMINATION OF NOTICE OF VIOLATION

Company: **San Miguel Electrical Cooperative, Inc.**

County: **Atascosa and McMullen**

Mine: **San Miguel Mine**

Permit No.: **11G**

Mailing Address: **P.O. Box 280**

Jourdanton, TX 78026

Under the authority of the Texas Surface Coal Mining and Reclamation Act and the Texas Coal Mining Regulations, with respect to Notice of Violation No. 118A dated November 24, 2015, is hereby terminated because:

The remedial action required the permittee to install adequate sediment control measures around the BN-2 Drop Structure and the permit boundary to prevent sediment from leaving the permit area and plant the area with approved grass species.

By letter dated February 25, 2016 (received by SMRD on February 29, 2016) the permittee informed SMRD that the remedial actions have been completed. The remedial actions were also verified in the field by SMRD Inspector Barry Gibbs on February 25-27, 2016. During Mr. Gibbs' three day inspection of the area, the mine had received approximately 3-4 inches of rain which did not cause any significant impacts to the drop structure.

Based on the field inspection and the letter submitted to SMRD by the permittee, Notice of Violation 118A is hereby terminated.

Dated: **March 1, 2016**

Signed: _____

(Signature)
(Authorized Representative)



6123516
Rt

SAN MIGUEL ELECTRIC COOPERATIVE, INC.

February 25, 2016

Mr. John Caudle, Director
Railroad Commission of Texas
Surface Mining and Reclamation Division
P. O. Box 12967
Austin, Texas 78711-2967

Railroad Commission
of Texas
RECEIVED

FEB 29 2016

Surface Mining Division

**RE: San Miguel Lignite Mine, Permit 11G
Notice of Violation 118A
Payment of Penalty**

Dear Mr. Caudle:

San Miguel Electric Coop., Inc. has completed required remedial actions for the abatement of Notice of Violation (NOV) 118A. The sediment has been removed from the basin for drop structure BN-2, new round hay bales have been placed to form a check dam for the basin and two rows of silt fence have been installed between the hay bales and the permit boundary. The structure has received 4.07 inches of rain over a two day period since installation and appears to be functioning as designed. Inspection Services Staff was on site this week shortly after the end of one of the intense rainfall events and viewed the area. The slopes of the haul road have been seeded with permanent grass species as well as the landowner's property. Enclosed is a check in the amount of \$6,500 as payment of the penalty assessed for Notice of Violation 118A.

Please feel free to call me at 830.784.3411 ext. 204 if you have any questions or require additional information.

Sincerely,

Nellie Frisbee
Fuels Manager

Attachment

CC: Derrick Brummett
Reader File
Reclamation
Kiewit



RAILROAD COMMISSION OF TEXAS

SURFACE MINING AND RECLAMATION DIVISION

February 1, 2016

Sent by Email and First Class Mail

Ms. Nellie Frisbee
Fuels Manager
San Miguel Electric Cooperative, Inc.
P.O. Box 280
Jourdanton, Texas 78026-0280

RE: San Miguel A and E Mine, Permit No. 11G
Notice of Violation 118A Modification No. 2

Dear Ms. Frisbee:

Enclosed is a copy of the Modification of Notice of Violation 118A, issued November 24, 2015, at the San Miguel Mine.

If you have any questions concerning this information, do not hesitate to contact me at 512.305.8813.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Engelmann", followed by a long horizontal line.

Scott Engelmann, Manager
Inspection and Enforcement

SE/sdj

Enclosure

pdfc: Randall Greene, OSMRE – Tulsa Field Office
Jeff Zingo, OSMRE – Tulsa Field Office

RAILROAD COMMISSION OF TEXAS
SURFACE MINING AND RECLAMATION DIVISION

Modification No.

2



Notice of Violation No.

118A

MODIFICATION OF NOTICE OF VIOLATION

Company: San Miguel Electric Cooperative, Inc (SMECI)

County: Atascosa and McMullen

Mine: San Miguel Mine

Permit No.: 11G

Mailing Address: P.O. Box 280
Jourdanton, TX 78026

Under the authority of the Texas Surface Coal Mining and Reclamation Act and the Texas Coal Mining Regulations, with respect to Notice of Violation No. 118A dated **November 24, 2015**, is modified on this date to read as follows:

Description of Violation(s):

The permittee failed to maintain appropriate sediment control measures. The failure to install additional sediment controls allowed sediment to freely flow out of the permit and onto adjacent landowner property.

Provisions of Regulations, Act, or Permit Violated: No Change

Area of Operation Affected: No Change

Remedial Action Required:

1. Install adequate sediment control measures around the drop structure and the permit boundary to prevent sediment from leaving the permit area.
2. Plant the area with approved grass species and/or with a temporary winter grass species.

Time for Abatement: February 29, 2016

The reason(s) for this modification are as follows:

By letter dated January 29, 2016, SMECI requested a 30 day extension (February 28, 2016) for the Time of Abatement to complete the repairs to the drop structure. Since February 28 falls on a Sunday, SMECI is granted a 31 day extension to expire on February 29, 2016.

Dated: February 1, 2016

Signed: _____


(Authorized Representative)

RAILROAD COMMISSION OF TEXAS
SURFACE MINING AND RECLAMATION DIVISION




NOTICE OF VIOLATION
EXTENSION REQUEST BEYOND 90 DAYS

Company San Miguel Electric Cooperative (SMECI) County Atascosa

Mine San Miguel Lignite Mine Permit No. 11G

NOV# 118A Date Issued November 24, 2015

Justification and recommendation for an abatement period of more than 90 days (§12.678) (granting or denying the request): **By letter dated January 29, 2016, SMECI requested an additional 31 days (from prior date of January 29, 2016 to February 29, 2016), for a total of 91 days, to complete the remedial action for abatement of NOV 118A. The request is for additional time to complete the remedial actions delayed by wet weather. SMECI is, therefore, granted an additional 31 days (February 29, 2016) to complete the abatement of NOV 118A.**

Date February 1, 2016 Authorized Representative 

Immediate Supervisor: Concur ☒ Disapprove ☐

Date 2-1-2016 Supervisor Signature 

Director: Concur ☒ Disapprove ☐

Date 2/1/2016 Director Signature 



SAN MIGUEL ELECTRIC COOPERATIVE, INC.

January 29, 2016

Mr. John Caudle, Director
Railroad Commission of Texas
Surface Mining and Reclamation Division
P. O. Box 12967
Austin, Texas 78711-2967

**Railroad Commission
of Texas
RECEIVED**

FEB 01 2016

Surface Mining Division

**RE: San Miguel Lignite Mine, Permit 11G
Notice of Violation 118A
Request for Extension for Time for Abatement**

Dear Mr. Caudle:

San Miguel Electric Cooperative, Inc. is in the process of cleaning out the sediment basin and installing sediment control measures to remediate Notice of Violation No. 118A. The remediation activities have been delayed by the weather, during which time the drop structure was blocked with a berm so no water could flow through it. SMECI anticipates it will be complete with the required remedial actions in another 30 days. SMECI is requesting an extension of the Time for Abatement until February 29, 2016.

Please feel free to call me at 830.784.3411 ext. 204 if you have any questions or require additional information.

Sincerely,

Nellie Frisbee
Fuels Manager

CC: Derrick Brummett
Reader File
Reclamation
Kiewit



RAILROAD COMMISSION OF TEXAS

SURFACE MINING AND RECLAMATION DIVISION

January 27, 2016

Ms. Elaine Ramsey, Director
Tulsa Field Office
Office of Surface Mining Reclamation and Enforcement
1645 S 101st East Avenue, Suite 145
Tulsa, Oklahoma 74128-4629

RE: San Miguel Mine, Permit No. 11G
Penalty Assessment
Notice of Violation 118A

Dear Ms. Ramsey:

Enclosed are copies of the Assessment Worksheet and the Notice of Proposed Assessment for Notice of Violation 118A, issued on November 24, 2015.

If you have any questions concerning this matter, do not hesitate to call me at (512) 463-6901.

Sincerely,

A handwritten signature in black ink that reads "John E. Caudle".

John E. Caudle, Director
Surface Mining and Reclamation Division

JEC/se
Enclosure



RAILROAD COMMISSION OF TEXAS

SURFACE MINING AND RECLAMATION DIVISION

January 27, 2016

CERTIFIED RECEIPT
NO. 91 7108 2133 3938 6133 6450

Ms. Nellie Frisbee
Fuels Manager
San Miguel Electric Cooperative, Inc.
P.O. Box 280
Jourdanton, Texas 78026-0280
RE: San Miguel Mine, Permit No. 11G
Penalty Assessment
Notice of Violation 118A

Dear Ms. Frisbee:

The Surface Mining and Reclamation Division has completed review of Notice of Violation (NOV) No. 118A. Based on this review and the procedures contained in 16 TAC §§12.687 and 12.688, I have determined that the violation cited occurred and propose a civil penalty in the amount of \$6,500. Enclosed is a copy of the Assessment Worksheet.

The procedures to administer this assessment are described in §§12.691 and 12.692. A request for a review of the proposed assessment amount (assessment conference) must be received within 15 days from the date the assessment was mailed. Section 12.693 provides for a hearing if you contest the fact of the violation. The petition for a hearing together with the amount of the assessment must be received within 30 days from your receipt of the proposed assessment. As described in §12.694 if a hearing is not requested then the proposed assessment shall become a final order of the Commission and the assessed amount shall become due and payable upon expiration of the time allowed to request a hearing.

If you have any questions concerning this matter, do not hesitate to contact me at (512) 463-6901.

Sincerely,

A handwritten signature in black ink that reads "John E. Caudle".

John E. Caudle, Director
Surface Mining and Reclamation Division

JEC/se
Enclosure

ASSESSMENT WORKSHEET

VIOLATION: 118A
COMPANY NAME: San Miguel Electric Cooperative, Inc.
MINE NAME: San Miguel Mine
PERMIT NO: 11G

**1. HISTORY OF PREVIOUS VIOLATIONS: (N.O.V.'S: ONE (1) POINT EACH;
C.O.'S: FIVE (5) POINTS EACH)**

One violation has been issued at this mine during the past twelve months.
One (1) point is assessed.

2. SERIOUSNESS:

(A) Probability of occurrence (RANGE: ZERO (0) TO FIFTEEN (15) POINTS)

On November 24, 2015 SMECI was cited for the failure to maintain appropriate sediment control measures, allowing sediment to be deposited outside the permit area, a violation of §§12.343 of the Regulations.

The assessment of probability of occurrence refers to the occurrence of the event that the violated regulation was intended to prevent. An event refers to the environmental harm, personal injury or property damage, which the regulation is intended to prevent. In all Notices of Violation (NOV), a violation has already occurred; there is no question of probability involved in this regard. The question is whether any damage associated with the violation has occurred or will occur. This question is what is assessed qualitatively under probability of occurrence. The permittee requested an informal meeting with staff on December 10, 2015, to discuss the facts of this violation, which has been considered in this assessment.

When an inspector writes a violation for failure to design, construct and/or maintain temporary sediment control measures using the best technology currently available, the event that the regulation is designed to prevent is water and land pollution through siltation. During the November 18-19, 2015 mine inspection, the inspector evaluated the BN-2 Drop Structure, located approximately 2,400 feet south of the bridge crossing La Parita Creek, on the north side of the main haul road, to determine if sediment control measures implemented by SMECI were functioning properly. The BN-2 Drop Structure has been a focal point of the monthly inspections since NOV 114A was issued at this location in April 2015. Based on observations made by the inspector, the event that the regulation is designed to prevent, in this case land pollution through siltation, did, once again, occur. Following issuance of NOV 114A, SMECI installed additional sediment control measures (silt fencing, hay bale check dams) below the BN-2 Drop Structure in an effort to curb further sediment leaving the permit area. Based on the inspector's observations during the November 2015 inspection, the sediment control measures were not adequate to prevent erosion and sediment from going offsite again. According to the Statement of Inspector's Observations, the hay bales that were installed below the BN-2 Drop Structure had silted up and eroded, leaving large gaps for sediment to freely flow out of the permit area. In addition, no silt fencing was installed along the permit boundary as a last line of defense. Due to the distance from the receiving stream (La Parita Creek), approximately 2400 feet, it is unlikely that sediment would have entered the creek and caused water pollution.

Fifteen (15) points are assessed.

(B) Extent of potential or actual damage (RANGE: ZERO (0) TO FIFTEEN (15) POINTS)

The damage or environmental impact from the sediment deposition was located outside of the permit boundary. Based on the accompanying inspection report, the amount of off-site sediment deposition was slight, compared to the occurrence in April 2015 (NOV 114A); however, sediment was indeed deposited off permit. Each inspection report subsequent to the April 2015 report discussed the need for additional/upgraded sediment control measures below the BN-2 Drop Structure to curtail off-site impacts due to sedimentation.

Ten (10) points are assessed.

3. NEGLIGENCE: (RANGE: ZERO (0) TO TWENTY-FIVE (25) POINTS)

Negligence is the failure of a permittee to exercise the degree of care normally expected of a careful and reasonable operator. A greater degree of fault than negligence is considered when the permittee's conduct is reckless, knowing, or intentional. The Commission shall assign up to 25 points based on the degree of fault of the person to whom the notice was issued in causing or failing to correct the violation, condition, or practice which led to the notice or order, either through act or omission.

SMECI was issued NOV 114A in April 2015 for failure to maintain sediment control measures and prevent sediment from leaving the permit boundary. Each subsequent inspection and inspection report emphasized the need to maintain, increase and upgrade sediment control measures in the subject area because of the high potential for re-occurrence of the infraction. Each subsequent inspection report documented discussions with site personnel concerning the importance of fortifying the area above and beyond measures in place at the time NOV 114A was issued. The permittee did install some additional hay bales and silt fencing just below the BN-2 Drop Structure, but no measures were installed along the permit boundary as a final barrier against sediment leaving the permit, after being suggested numerous times by the inspector(s); therefore, NOV 118A was issued following the November 2015 inspection, at which time, the inspector, again, observed failure of the sediment control measures, allowing sediment deposition beyond the permit boundary.

Twenty (20) points are assessed.

4. GOOD FAITH: (RANGE: ZERO (0) TO MINUS TEN (-10) POINTS)

Good faith points are added based on the degree of good faith of the permittee in attempting to achieve rapid compliance after notification of the violation. On December 10, 2015, at the request of SMECI, an informal meeting was held with a SMECI representative and members of the Inspection and Enforcement staff to discuss the events leading up to the issuance of NOV 118A, in particular, the lack of due diligence in trying to prevent a second occurrence of off-site sedimentation through the implementation of adequate sediment control measures. Part of the remedial action for NOV 118A was to plant the area with approved grass species to stabilize the area against additional erosion. The area had not been planted at the time of the informal meeting with SMECI.

Zero (0) points are assessed.

TOTAL POINTS:

ASSESSMENT: \$6,500.00



Scott Engelmann
Assessment Officer

1-27-2016
Date



RAILROAD COMMISSION OF TEXAS

SURFACE MINING AND RECLAMATION DIVISION

January 6, 2016

Sent by Email and First Class Mail

Ms. Nellie Frisbee
Fuels Manager
San Miguel Electric Cooperative, Inc.
P.O. Box 280
Jourdanton, Texas 78026-0280

RE: San Miguel A and E Mine, Permit No. 11G
Notice of Violation 118A Modification No. 1

Dear Ms. Frisbee:

Enclosed is a copy of the Modification of Notice of Violation 118A, issued November 24, 2015, at the San Miguel Mine.

If you have any questions concerning this information, do not hesitate to contact me at 512.305.8813.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Engelmann", with a long horizontal line extending to the right.

Scott Engelmann, Manager
Inspection and Enforcement

SE/sdj

Enclosure

pdfc: Randall Greene, OSMRE – Tulsa Field Office
Jeff Zingo, OSMRE – Tulsa Field Office

RAILROAD COMMISSION OF TEXAS
SURFACE MINING AND RECLAMATION DIVISION

Modification No.

1



Notice of Violation No.

118A

MODIFICATION OF NOTICE OF VIOLATION

Company: San Miguel Electric Cooperative, Inc

County: Atascosa and McMullen

Mine: San Miguel Mine

Permit No.: 11F ~~G~~

Mailing Address: P.O. Box 280

Jourdanton, TX 78026

Under the authority of the Texas Surface Coal Mining and Reclamation Act and the Texas Coal Mining Regulations, with respect to Notice of Violation No. 118A dated **November 24, 2015**, is modified on this date to read as follows:

Description of Violation(s):

The permittee failed to maintain appropriate sediment control measures. The failure to install additional sediment controls allowed sediment to freely flow out of the permit and onto adjacent landowner property.

Provisions of Regulations, Act, or Permit Violated: No Change

Area of Operation Affected: No Change

Remedial Action Required:

1. Install adequate sediment control measures around the drop structure and the permit boundary to prevent sediment from leaving the permit area.
2. Plant the area with approved grass species and/or with a temporary winter grass species.


Time for Abatement: January 31, 2016

The reason(s) for this modification are as follows:

NOV 118A did not list a date for the Time of Abatement.

Dated: January 5, 2016

Signed: _____


(Authorized Representative)



RAILROAD COMMISSION OF TEXAS

SURFACE MINING AND RECLAMATION DIVISION

November 24, 2015

Sent by Email and First Class Mail

Ms. Nellie Frisbee
Fuels Manager
San Miguel Electric Cooperative, Inc.
P.O. Box 280
Jourdanton, Texas 78026-0280

**RE: San Miguel Mine, Permit No. 11G
Statement of Inspector's Observations
Notice of Violation 118A**

Dear Ms. Frisbee:

Enclosed is a copy of the Statement of Inspector's Observations and Notice of Violation 118A, issued November 24, 2015, at the San Miguel Mine.

If you have any questions concerning this information, do not hesitate to contact me at 512.305.8813.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Engelmann".

Scott Engelmann, Manager
Inspection and Enforcement

SE/sdj

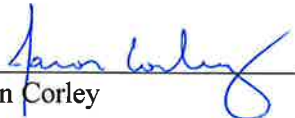
Enclosure

pdfc: Randall Greene, OSMRE – Tulsa Field Office
Jeff Zingo, OSMRE – Tulsa Field Office

**Statement of Inspector's Observations
Notice of Violation No. 118A
Issued to San Miguel Electrical Cooperative, Inc.
San Miguel Mine, Permit No. 11G**

On November 18, 2015, SMRD Inspector Barry Gibbs and I inspected the BN-2 Drop Structure to observe if the sediment control measures implemented by SMECI were functioning properly. The BN-2 Drop Structure has been observed every month since SMRD Inspector, Jacob Eickstead, issued NOV 114A at this location in April 2015, for sediment leaving the permit area. During the following six months, Mr. Eickstead informed SMECI that immediate action is needed to ensure that sediment will not flow out of the permitted area and onto the adjacent property again. During my October inspection, SMECI representative David Burris and I traveled to the site for inspection. A backhoe was brought in (photo 1) on the second day of the inspection and attempted to remove sediment from the sump, but due to saturated soils, SMECI suspended the operation until the area dried out. I recommended to Mr. Burris that additional silt fence be installed around the sump location and along the permit boundary as extra protection. During the inspection on November 18, 2015, it appeared that two round bales of hay were added to the top of the drop structure (photo 2), the previously placed hay bales had washed down into the sump during the earlier rain events. Also, no additional silt fence was observed installed around the sump or along the permit boundary fence (photo 3). The hay bales that were installed earlier in the year around and below the sump, have silted up and have eroded, leaving large gaps between the bales allowing sediment to freely flow through and out of the permitted area (photo 4).

Upon review of the Regulations, Permit No. 11G and discussion with the I&E Manager, Notice of Violation 118A was issued to SMECI for failure to maintain appropriate sediment control measures at the sump below the BN-2 Drop Structure. This is a violation of Texas Coal mining Regulations Title 16, Texas Administrative Code §12.343 and section .154 of Permit No. 11G.



Jason Corley

November 24, 2015

Date



Photo 1. Backhoe staged at the BN-2 Drop Structure in October (view north).

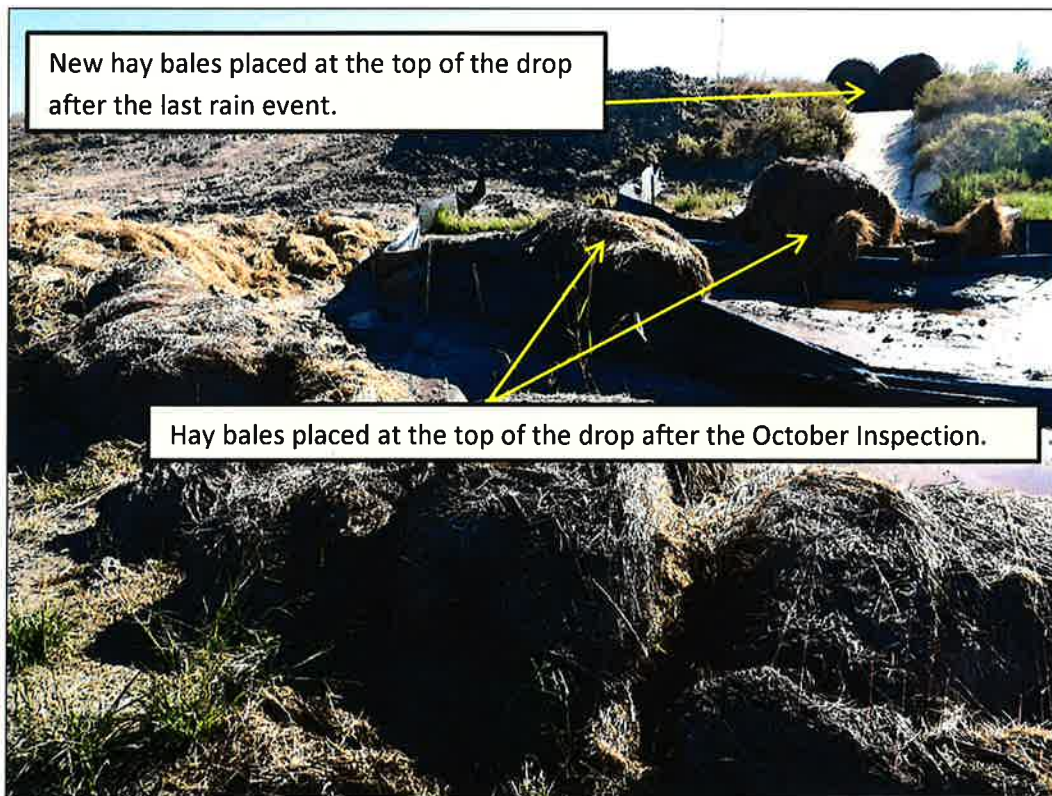


Photo 2. Hay bale failure (view east).



Photo 3. Permit Boundary (fence line) with no sediment control measures (view north).



Photo 4. Ineffective sediment control (view northeast).

RAILROAD COMMISSION OF TEXAS
SURFACE MINING AND RECLAMATION DIVISION



Notice of Violation No.

118A

NOTICE OF VIOLATION

Company: San Miguel Electrical Cooperative, Inc.

Mine Name San Miguel Mine

Permit No. 11G

Mailing Address: P.O. Box 280

City Jourdanton

Zip 78026

County Atascosa and McMullen

Telephone Number: (830) 784-3411

Notice Issued By: Jason Corley

Date of Inspection: November 18-19, 2015

Description of Violation(s): Failure to maintain appropriate sediment control measures. Failure to install additional sediment controls allowed sediment to freely flow out of the permit and onto adjacent landowner property.

Provisions of Regulations, Act or Permit Violated: Title 16, Texas Administrative Code §12.343 of the Texas Coal Mining Regulations and section .154 of the approved permit No. 11G.

Area of Operation Affected: Permit No. 11G, west of Drop Structure BN-2 west of the main haulroad and south of the La Parrita Creek bridge crossing.

Remedial Action Required: Install adequate sediment control measures around the drop structure and the permit boundary to prevent sediment from leaving the permit area and plant the area with approved grass species.

Time for Abatement: Immediately from the date of issuance to: A). Install the proper sediment control devices, and B). Plant the area with approved grass species.

Inspector Signature

Date

11/24/15

This Notice of Violation directs the party cited to immediately initiate corrective measures, and constitutes a separate Notice of Violation for each violation listed.

I hereby acknowledge receipt of this Violation. (Receipt does not constitute an admission of guilt)

(Signature)

Date

(Position)

COPY



RAILROAD COMMISSION OF TEXAS SURFACE MINING AND RECLAMATION DIVISION

COAL MINE INSPECTION REPORT

Inspectable Unit Name: San Miguel Area A&E Permit Number: 11G
 Permittee: San Miguel Electrical Cooperative Inc. (SMECI) County: Atascosa and McMullen
 Industry Representative(s) Present: N/A
 Inspector: Jason Corley and Barry Gibbs Date of Inspection: November 18-19, 2015
 Inspection Type: Complete ☒ Partial ☐ Special ☐

I. Field Conditions and Data Collection

Samples Collected: No ☒ Yes ☐ Sample Type: Water ☐ Soil ☐ Vegetation ☐
 Average Temperature: 58° Soil Condition: ☐ Dry ☒ Moderate ☐ Wet Wind Direction/
 11/17/15 Velocity (Est.) SW
 Last Rainfall: 0.10 inches Rainfall Since Last Inspection: 4.28 Year-To-Date Rainfall: 28.48
 Date Inches Inches
 Photographs Attached: No ☐ Yes ☒ (Complete Section IV)

II. Enforcement Action Taken

Notice of Violation Issued: No ☐ Yes ☒ NOV No. 118A
 Cessation Order Issued: No ☒ Yes ☐ CO No.
 Off-Site Impact: No ☐ Yes ☒ (Attach Off-Site Impact Report form)

Jason Corley 11/24/2015
 Inspector Signature Date

Barry Gibbs 11-24-2015
 Reviewing Supervisor Signature Date

Inspectable Unit Name: San Miguel Area A&E
Permit Number: 11G
Inspection Date: November 18-19, 2015

III. Performance Standard Categories

Codes: 1=Compliance; 2=Noncompliance; 3=Not applicable; 4=Comments (comments should be qualified by specific areas, observations, or discussions)

A. SIGNS AND MARKERS (§12.330)

- 1 Mine and Permit Markers
- 1 Perimeter Markers
- 1 Buffer Zone Markers
- 3 Blasting Signs
- 1 Topsoil/Suitable Material Stockpile Markers

B. CASING AND SEALING OF DRILL HOLES (§§12.331-12.333)

1

C. TOPSOIL REQUIREMENTS (§§12.334-12.338)

- 1 Topsoil Removal
- 1 Topsoil Storage
- 1 Substitute Materials
- 1 Redistribution

D. HYDROLOGIC BALANCE (§§12.339-12.355 & §12.389)

- 1 Drainage Control
- 1 Water Quality Standards/Effluent Limitations
- 1 Stream Channel Diversions
- 1 Sediment Control Measures (§§12.343 & 12.389)
- 1 Sediment Ponds
- 1 Pond Certification/Quarterly Inspections
- 1 Discharge Structures
- 1 Permanent/Temporary Impoundments
- 1 Surface/Ground Water Monitoring
- 1 Postmining Rehabilitation of Ponds/Diversions
- 1 Stream Buffer Zones

E. COAL RECOVERY (§12.356)

1

F. USE OF EXPLOSIVES (§§12.357-12.362)

- 3 Pre-Blast Survey/Schedule
- 3 Control of Adverse Effects
- 3 Blaster Certification
- 3 Distance Requirements
- 3 Warnings/Records

G. COAL PROCESSING WASTE (§§12.368-12.378)

1

H. PROTECTION OF FISH, WILDLIFE AND RELATED ENVIRONMENTAL VALUES (§12.380)

1

I. PIPELINE PROTECTION (§12.382)

1

J. CONTEMPORANEOUS RECLAMATION (§§12.383-12.388 & §12.397)

- 1 Backfilling and Grading Requirements
- 1 Approximate Original Contour
- 1 Handling of Acid and Toxic Materials
- 1 Temporary Cessation of Operations

K. REVEGETATION (§§12.390-12.395)

- 1 Approved Postmining Land Use
- 1 Use of Introduced Species
- 4 Mulching/Other Soil Stabilizing Practices
- 1 Normal Husbandry Practices (ERA)

L. ROAD REQUIREMENTS (§§12.400-12.401)

- 1 Design Criteria and Certification
- 1 Location
- 4 Maintenance and Drainage Control
- 1 Reclamation

M. UTILITY INSTALLATIONS AND SUPPORT FACILITIES (§12.402 & §12.403)

1

N. AREAS WHERE MINING IS PROHIBITED OR LIMITED (§12.71 & §12.220)

1

O. BOND & INSURANCE (§§12.300-12.311)

1

Inspectable Unit Name: San Miguel Area A&E
Permit Number: 11G
Inspection Date: November 18-19, 2015

IV. Comments – Compliance Narrative

(For Complete Inspections, this section should include a review of the most current effluent monitoring reports, MSHA records, pond discharges/inspections, blasting records, bonding, permit revisions and/or plans maintained on site)

In this section:

- Document the area of the permit inspected (pit designations or mine blocks)
- Document the mine equipment in use during the inspection
- Discuss observations made during the inspection (such as current activities, pond discharges, construction or drilling activities, etc.)
- Document the results of any field tests taken
- Document all approved rough backfilling/grading variances, including expiration dates
- Document any temporary cessations-of-operations
- Provide a summary of any discussions with industry representatives, along with results, and expectations from those discussions
- Describe any enforcement action taken during the inspection, along with facts or evidence supporting the enforcement action
- Document a detailed description of any off-site impact observed during the inspection

Nearly all portions of Area A and Area E of the San Miguel Mine, Permit No. 11G were observed during this **Complete Inspection**. SMRD Inspector, Barry Gibbs, accompanied during the inspection; no SMECI representatives were present for this inspection. Soil moisture conditions were moderate due to the earlier rainfall events, but access was still possible to most areas of the mine. At the close of inspection the year to date total rainfall for the permitted area was 28.48 inches, respectively. The following documents were reviewed in the Commission file room prior to the inspection: 3rd Quarter Surface/Groundwater records, monthly Discharge Monitoring Reports (DMR's), Pond inspection reports and Insurance/Bonding documentation.

The four plus inches of rain has greened up the vegetation throughout the inspectable unit considerably since the previous inspection as seen around Pond 11 (photo 1). Other areas continue to remain well vegetated, but have begun to display the first signs of winter vegetation and dormancy as seen west of Pond 1 (photo 2).

SMECI staff has corrected the minor erosion issue, noted in the September Inspection Report, concerning the discharge pipe located near the southeast corner of Pond 11. The area appeared to have been repaired and piece of conveyor belt was placed underneath the discharge pipe to prevent scouring of the soil when discharging (photo 3).

A significant breach in containment was observed at the BN-2 Drop Structure. After months of repeated warnings and recommendations from SMRD Inspector, Jacob Eickstead, the sediment control measures failed allowing sediment and water to flow freely out of the permit boundary and onto the adjacent landowner property (photos 4-7). Additional hay bales were placed at the top of the drop structure after the October inspection, but had since washed down to the bottom of the drop structure. In a phone conversation with SMECI representative, Dave Burris, I informed him that due to the lack of installing sufficient sediment controls and the disregard to SMRD inspector's warnings that a notice of violation would be issued for this area. Base material was brought in and staged at the Pond 10 Access Road entrance (photo 8). According to Mr. Burris, this material will be used to raise the haulroad and divert the runoff to the appropriate sediment ponds (Pond I and Pond J) and away from the BN-2 Drop Structure.

Inspectable Unit Name: San Miguel Area A&E
Permit Number: 11G
Inspection Date: November 18-19, 2015

IV. Comments – Cont.

The ponds observed during the inspection appeared to be functioning as intended. No pond was observed discharging during the inspection. The Pond 15E discharge pipe (photo 9), Pond 1, Pond 8, and Pond A-1 were observed during the inspection (photos 10-12).

According to §12.344 **Hydrologic Balance: Siltation Structures** of the Coal Mining Regulation of Texas, (b) (1) additional contributions of suspended solids sediment to streamflow or runoff outside the permit area shall be prevented to the extent possible using the best technology currently available and (2) all surface drainage from the disturbed area shall be passed through a siltation structure before leaving the permit. After review of Permit No. 11G, and from my observations in the field, I found SMECI to be in violation of Title 16 of the Texas Administrative Code, Section 12.344 (b) (1) and (2) and section .154 of the approved permit; therefore, NOV 118A was issued on November 24, 2015.

A telephone closeout meeting was held on Monday, November 24th with Mr. Burris. All items in this inspection report were discussed during the closeout meeting. No husbandry practices that would constitute augmentation were observed. As a result of this inspection, NOV 118A was issued to SMECI on November 24, 2015.

Inspectable Unit Name: San Miguel Area A&E
Permit Number: 11G
Inspection Date: November 18-19, 2015

V. Photographs



Photo 1. Vibrant vegetation around Pond 11 (view west).



Photo 2. Vegetation west of Pond 1 (view northwest).

Inspectable Unit Name: San Miguel Area A&E
Permit Number: 11G
Inspection Date: November 18-19, 2015

V. Photographs



Photo 3. Conveyor material underneath the polypipe located south of Pond 11 (view northwest).



Photo 4. Sediment control failure at the BN-2 Drop Structure (view northeast).

Inspectable Unit Name: San Miguel Area A&E
Permit Number: 11G
Inspection Date: November 18-19, 2015

V. Photographs



Photo 5. Hay bale and sediment eroded away (view northeast).



Photo 6. Overtopped silt fence (view north).

Inspectable Unit Name: San Miguel Area A&E
 Permit Number: 11G
 Inspection Date: November 18-19, 2015

V. Photographs

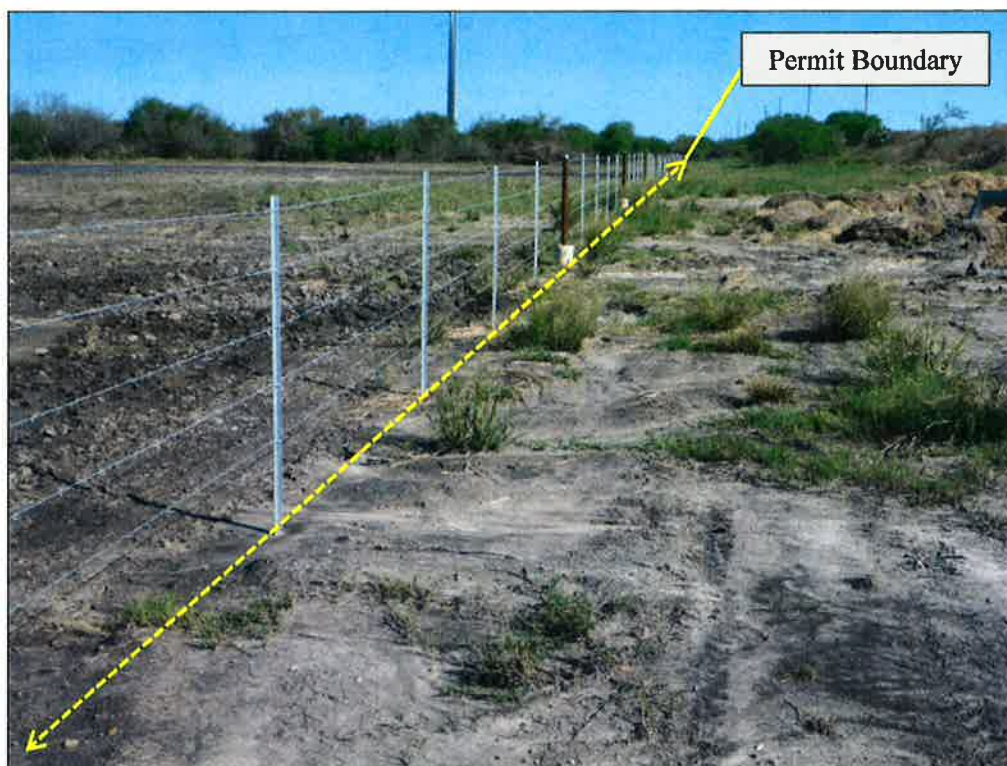


Photo 7. Lack of sediment control, sediment deposition offsite (view north).



Photo 8. Road base material staged at the entrance to the Pond 10 Access Road (view west).

Inspectable Unit Name: San Miguel Area A&E
Permit Number: 11G
Inspection Date: November 18-19, 2015

V. Photographs



Photo 9. Pond 15E discharge pipe (view southwest).



Photo 10. Pond 1 (view east).